

ESTTA Tracking number: **ESTTA412613**

Filing date: **06/03/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	MCR Oil Tools, LLC
Granted to Date of previous extension	06/04/2011
Address	1720 Oak Village Blvd. Arlington, TX 76017 UNITED STATES
Attorney information	J. Seth Randle DuBois, Bryant & Campbell, LLP 700 Lavaca, Suite 1300 Austin, TX 78701 UNITED STATES srandle@dbcllp.com Phone:512-457-8000

Applicant Information

Application No	85019914	Publication date	04/05/2011
Opposition Filing Date	06/03/2011	Opposition Period Ends	06/04/2011
Applicant	Weir Slurry Group, Inc. 2701 South Stoughton Road Madison, WI 57316 UNITED STATES		

Goods/Services Affected by Opposition


Class 007. All goods and services in the class are opposed, namely: Centrifugal pumps and parts therefor, namely, pump casings, pump frames, pump bearing assemblies; pump housings for centrifugal pumps, namely, cover plates; throat bushes and liners for centrifugal pumps; throat bush and liner adjustment mechanisms for centrifugal pumps; pump seal assemblies for centrifugal pumps having hydrodynamic and/or mechanical seal assemblies and the components therefor; expellers for centrifugal pumps; impellers for centrifugal pumps; pedestals and bases specially adapted for centrifugal pumps; and impeller release mechanisms for centrifugal pumps


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3780680	Application Date	09/04/2009
Registration Date	04/27/2010	Foreign Priority	NONE

		Date	
Word Mark	MCR OIL TOOLS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 007. First use: First Use: 1995/01/02 First Use In Commerce: 1995/01/02 Machines and machine tools used in oil and gas well drilling and well working, namely, radial cutting torches, pipe cutters, pipe perforators, and pipe recovery retrievers		

U.S. Registration No.	3776826	Application Date	12/19/2008
Registration Date	04/20/2010	Foreign Priority Date	NONE
Word Mark	M MCR OIL TOOLS		
Design Mark			
Description of Mark	The mark consists of a stylized "M" inside of a rectangle and formed by an upper triangle and two lower triangles, with "MCR OIL TOOLS" appearing to one side of the rectangle, with "MCR" above "OIL TOOLS".		
Goods/Services	Class 007. First use: First Use: 2009/05/01 First Use In Commerce: 2009/05/01 Downhole drilling tools, namely, pipe cutting tools, pipe perforating tools and pipe recovery tools		

Attachments	77820776#TMSN.jpeg (1 page)(bytes) 77636594#TMSN.jpeg (1 page)(bytes) Notice of Opposition MCR.pdf (15 pages)(601942 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/J. Seth Randle/
Name	J. Seth Randle
Date	06/03/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Mark Application Serial No. 85/019,914
Published in the Official Gazette on April 5, 2011.

MCR OIL TOOLS, LLC
Opposer,

vs.

WEIR SLURRY GROUP, INC.
Applicant.

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Opposition No. _____

NOTICE OF OPPOSITION

TO THE TRADEMARK TRIAL AND APPEAL BOARD:

MCR Oil Tools, LLC (“Opposer”), having its principal place of business at 1720 Oak Village Blvd., Arlington, Texas 76017, by its attorneys, believes that it will be damaged by registration of United States Trademark Application Serial No. 85/019,914, filed April 21, 2010 by Weir Slurry Group, Inc. (“Applicant”), and hereby opposes the same pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.101(b). As grounds of opposition, it is alleged that:

A. Factual Background

1. Opposer’s Marks. Opposer is a well established company that sells products and services in the petroleum industry. More specifically, Opposer specializes in machines and machine tools that are used in oil and gas wells. Opposer owns a U.S. Federal trademark registration for MCR OIL TOOLS which is registered under Registration No. 3,780,680 for “machines and machine tools used in oil and gas well drilling and well working, namely, radial cutting torches, pipe cutters, pipe perforators, and pipe recovery retrievers” in International Class

007. Opposer also owns a U.S. Federal trademark registration for M MCR OIL TOOLS (and Design) under Registration No. 3,776,826 for “downhole drilling tools, namely, pipe cutting tools, pipe perforating tools and pipe recovery tools” in International Class 007. (Collectively referred to herein as “Opposer’s Marks” or “Marks”). A copy of Registration No. 3,780,680 and Registration No. 3,776,826 are attached as Exhibit A. MCR OIL TOOLS has been a federally registered since April 27, 2010 and has been in continuous use since at least as early as January 2, 1995, and M MCR OIL TOOLS (and Design) has been federally registered since April 20, 2010 and has been in continuous use since at least as early as May 1, 2009.

2. Use of Opposer’s Marks. Opposer has expended extensive time and money developing its Marks in connection with its products. Opposer has advertised and marketed its products in interstate commerce, thereby creating valuable goodwill. Moreover, Opposer has so used its Marks in connection with its products that the relevant public has come to associate the MCR OIL TOOLS mark with Opposer, and as indicating that the products originate with Opposer.

3. Applicant’s Application. On April 21, 2010 Applicant filed United States Trademark Application Serial Number 85/019,914 (the “Application”) to federally register the word “MCR,” under 15 U.S.C. § 1051(b) based on an intent to use the mark in interstate commerce. A copy of Applicant’s Application is attached as Exhibit B. According to the Application and information on file with the United States Trademark Office, Applicant is a Wisconsin corporation with offices at 2701 South Stoughton Road, Madison, Wisconsin 53716. Applicant seeks to register the word “MCR” in International Class 007 for use in connection with “centrifugal pumps and parts therefor, namely, pump casings, pump frames, pump bearing assemblies; pump housings for centrifugal pumps, namely, cover plates; throat bushes and liners

for centrifugal pumps; throat bush and liner adjustment mechanisms for centrifugal pumps; pump seal assemblies for centrifugal pumps having hydrodynamic and/or mechanical seal assemblies and the components therefor; expellers for centrifugal pumps; impellers for centrifugal pumps; pedestals and bases specially adapted for centrifugal pumps; and impeller release mechanisms for centrifugal pumps.” Applicant’s application was published for opposition in the Official Gazette on April 5, 2011.

4. Opposer’s Senior Rights in the Marks. Applicant has filed its application based on its “intent-to-use” the mark under Section 1(b) of the Trademark Act, 15 U.S.C. Section 1051(b). Applicant’s “constructive use” priority only goes back to the date of filing the application, namely, April 21, 2010. Opposer’s priority for its MCR OIL TOOLS mark dates back to at least as early as January 2, 1995. The MCR OIL TOOLS mark has been continuously developed, offered and advertised in interstate commerce with the goods described in its registration since at least as early as January 2, 1995. Further, Opposer’s priority for its M MCR OIL TOOLS (and Design) mark dates back to at least as early as May 1, 2009. The M MCR OIL TOOLS (and Design) mark has been continuously developed, offered and advertised in interstate commerce with the goods described in the registration since at least as early as May 1, 2009. Therefore, Opposer has superior rights and priority in the use of the marks MCR OIL TOOLS and M MCR OIL TOOLS (and Design), and marks confusingly similar thereto, including Applicant’s proposed mark “MCR.”

5. Likelihood of Confusion. Opposer would show that Applicant’s proposed mark “MCR” so resembles Opposer’s Marks that, when used on or in connection with Applicant’s goods, it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act. Applicant’s specified products in International Class 007 are

very closely related to the products sold by Opposer under its Marks. Customers of Opposer's products in International Class 007 and Applicant's products could and would likely be confused as to source or origin of Opposer's and Applicant's respective products and likely to believe Applicant's products either originate with Opposer or were affiliated with, sponsored by or endorsed by Opposer.

6. Opposer's Injury. If Applicant is granted registration for its proposed mark, Applicant would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer and its customers. Based upon the foregoing, Applicant's Application for the proposed mark "MCR," Serial No. 85/019,914, filed April 21, 2010 will cause injury and damage to Opposer.

7. Conclusion. In view of the above, Applicant's application to register the proposed mark "MCR" is not entitled to federal registration and the Application should be denied.

WHEREFORE, Opposer requests that registration of Serial No. 85/019,914 be denied.

Respectfully submitted,

Date: June 3, 2011

/J. Seth Randle/
J. Seth Randle
DUBOIS, BRYANT & CAMPBELL, LLP
700 Lavaca Street, Suite 1300
Austin, Texas 78701
(512) 457-8000
(512) 457-8008 (fax)
ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Julie K. Morriss, Morris, O'Bryant, Compagni, P.C., Attorney of Applicant, by mailing said copy on June 3, 2011, via First Class Mail, postage prepaid to:

JULIE K. MORRISS
MORRISS O'BRYANT COMPAGNI, P.C.
734 E 200 S
SALT LAKE CITY, UT 84102-2202

/J. Seth Randle/

EXHIBIT A

REGISTRATION OF MCR OIL TOOLS AND M MCR OIL TOOLS (AND DESIGN)

United States of America

United States Patent and Trademark Office

MCR OIL TOOLS

Reg. No. 3,780,680

Registered Apr. 27, 2010

Int. Cl.: 7

TRADEMARK

PRINCIPAL REGISTER

MCR OIL TOOLS, LLC (TEXAS LIMITED LIABILITY COMPANY)
1720 OAK VILLAGE BLVD.
ARLINGTON, TX 76017

FOR: MACHINES AND MACHINE TOOLS USED IN OIL AND GAS WELL DRILLING AND WELL WORKING, NAMELY, RADIAL CUTTING TORCHES, PIPE CUTTERS, PIPE PERFORATORS, AND PIPE RECOVERY RETRIEVERS, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND 35).

FIRST USE 1-2-1995; IN COMMERCE 1-2-1995.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OIL TOOLS", APART FROM THE MARK AS SHOWN.

SER. NO. 77-820,776, FILED 9-4-2009.

ALEX KEAM, EXAMINING ATTORNEY



David S. Kypos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 3,776,826

Registered Apr. 20, 2010

Int. Cl.: 7

TRADEMARK

PRINCIPAL REGISTER

MCR OIL TOOLS, LLC (TEXAS LIMITED LIABILITY COMPANY)
7315 BUSINESS PLACE
ARLINGTON, TX 76001

FOR: DOWNHOLE DRILLING TOOLS, NAMELY, PIPE CUTTING TOOLS, PIPE PERFORATING TOOLS AND PIPE RECOVERY TOOLS, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND 35);

FIRST USE 5-1-2009; IN COMMERCE 5-1-2009.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OIL TOOLS", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF A STYLIZED "M" INSIDE OF A RECTANGLE AND FORMED BY AN UPPER TRIANGLE AND TWO LOWER TRIANGLES, WITH "MCR OIL TOOLS" APPEARING TO ONE SIDE OF THE RECTANGLE, WITH "MCR" ABOVE "OIL TOOLS".

SER. NO. 77-636,594, FILED 12-19-2008.

AISHA SALEM, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT B

APPLICANT'S ORIGINAL APPLICATION

Trademark/Service Mark Application, Principal Register

Serial Number: 85019914

Filing Date: 04/21/2010

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85019914
MARK INFORMATION	
*MARK	MCR
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	MCR
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Weir Slurry Group, Inc.
*STREET	2701 South Stoughton Road
*CITY	Madison
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	57316
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Wisconsin
GOODS AND/OR SERVICES AND BASIS INFORMATION	

INTERNATIONAL CLASS	007
*IDENTIFICATION	﻿Pumps and parts therefor, namely pump casings, pump frames, pump bearing assemblies; pump housings, namely cover plates; throat bushes and liners; throat bush and liner adjustment mechanisms; pump seal assemblies having hydrodynamic and/or mechanical seal assemblies and the components therefor; expellers; impellers; pedestals and bases for pumps; and impeller release mechanisms
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Julie K. Morriss
ATTORNEY DOCKET NUMBER	4659.WSG.TM
FIRM NAME	Morriss O'Bryant Compagni, P.C.
STREET	734 E. 200 S.
CITY	Salt Lake City
STATE	Utah
COUNTRY	United States
ZIP/POSTAL CODE	84102
PHONE	8014780071
FAX	8014780076
EMAIL ADDRESS	marks@utahpatents.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Frank W. Compagni, David W. O'Bryant
CORRESPONDENCE INFORMATION	
NAME	Julie K. Morriss
FIRM NAME	Morriss O'Bryant Compagni, P.C.
STREET	734 E. 200 S.
CITY	Salt Lake City
STATE	Utah
COUNTRY	

COUNTRY	United States
ZIP/POSTAL CODE	84102
PHONE	8014780071
FAX	8014780076
EMAIL ADDRESS	marks@utahpatents.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	/Julie K. Morriss/
SIGNATORY'S NAME	Julie K. Morriss
SIGNATORY'S POSITION	Attorney of record, Utah Bar member
DATE SIGNED	04/21/2010

P. O. Form 1475 (Rev. 9/2004)
OMB No. 0951-0009 (Exp. 12/31/2011)

Trademark/Service Mark Application, Principal Register

Serial Number: 85019914

Filing Date: 04/21/2010

To the Commissioner for Trademarks:

MARK: MCR (Standard Characters, see mark)

The literal element of the mark consists of MCR.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Weir Slurry Group, Inc., a corporation of Wisconsin, having an address of

2701 South Stoughton Road
Madison, Wisconsin 57316
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 007: ﻿Pumps and parts therefor, namely pump casings, pump frames, pump bearing assemblies; pump housings, namely cover plates; throat bushes and liners; throat bush and liner adjustment mechanisms; pump seal assemblies having hydrodynamic and/or mechanical seal assemblies and the components therefor; expellers; impellers; pedestals and bases for pumps; and impeller release mechanisms

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Julie K. Morriss and Frank W. Compagni, David W. O'Bryant of Morriss O'Bryant Compagni, P.C.
734 E. 200 S.
Salt Lake City, Utah 84102
United States

The attorney docket/reference number is 4659.WSG.TM.

The applicant's current Correspondence Information:

Julie K. Morriss
Morriss O'Bryant Compagni, P.C.
734 E. 200 S.
Salt Lake City, Utah 84102
8014780071(phone)
8014780076(fax)
marks@utahpatents.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to

be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Julie K. Morriss/ Date Signed: 04/21/2010
Signatory's Name: Julie K. Morriss
Signatory's Position: Attorney of record, Utah Bar member

RAM Sale Number: 4069
RAM Accounting Date: 04/22/2010

Serial Number: 85019914
Internet Transmission Date: Wed Apr 21 17:55:32 EDT 2010
TEAS Stamp: USPTO/BAS-68.66.169.178-2010042117553252
9031-85019914-460fff34f72fdbbc5e31c03037
c373829a-CC-4069-20100421174823571186

MCR